

## BEST AVAILABLE COPY

REMARKS

Reconsideration and allowance are respectfully requested.

The amendments proposed in this Response particularly point out and distinctly claim the subject matter of the invention. No new matter has been added. Entry and allowance are requested.

Claims 1, 2, 10, and 11 are patentable under 35 U.S.C. 102(b) over Mitchell et al. (US patent 6,046,686). Claims 3-7 and 12-16 are also patentable under 35 U.S.C. 103(a) over Mitchell et al. (US patent 6,046,686).

Mitchell relates to a speed display device which displays a steady amber color or a flashing red color responsive to a vehicle's measured speed being less than or greater than a threshold speed.

The Examiner contends that Mitchell's amber and red color displays are the same as the claimed green and red displays because the latter is a mere "engineering design choice." However, if that was true then all the traffic lights would have mere red and amber colors without the necessity of any green lights. But, that is not the case because green lights having been used for traffic lights for decades are now associated with a "go ahead" signal to the viewer's brain whereas red lights are associated with stops. Amber lights are provided as a warning for speeding vehicles to slow down and prepare for a stop when the transition is from red to amber to green. Therefore, amber lights are associated with caution rather than the "go ahead" signal of green lights.

The present invention uniquely uses that feature to provide motorists with an option of proceeding when the green lights are displayed (at or below speed limits) and slowing down when flashing reds indicate above normal speeds. Motorists will not be confused between the amber traffic lights which signal caution and will be the end result of the Mitchell device which has amber displays.

Nothing in Mitchell describes, teaches, or suggests the features of the present claims.

Citing In re Gordon, 221 USPQ, 1127, the court pointed out, "the mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification". In re Fritch, 23 USPQ2d 1783, 1784 (CAFC, August 1992).

Claims 8 and 17 are patentable under 35 U.S.C. 103(a) over Mitchell et al. (US patent 6,046,686) in view of Durinzi Jr. et al. (6,427,369).

As pointed out above, Mitchell does not teach nor suggest the claimed invention. Therefore, any further combination with secondary references will also lead away from the present claims.

Durinzi has been relied on as teaching lights for "illuminating the supporting with color." However, Durinzi, with or without Mitchell, does not teach nor suggest illuminating a speed monitoring display with light that illuminates the support in the casing.

Durinzi is an advertising kiosk holding translucent sheets on a movable frame with writing thereon. Fluorescent lamps mounted adjacent to and inside the kiosk illuminate the sheets to enable passers by to read the copy on the sheets. There is no suggestion or motivation within the two references to arrive at the Examiner's modification which stems from the present disclosure due to hindsight reconstructions. However, that cannot be a basis for any obviousness holding.

"It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." In re Fritch, 23 USPQ2d 1783, 1784 (CAFC, August 1992), quoting from In re Gorman, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). "This court has previously stated that one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." Id. quoting from In re Fine, 5 USPQ2d 1600 (CAFC, 1988).

Claims 9 and 18 are patentable under 35 U.S.C. 103(a) over Mitchell et al. (US patent 6,046,686) and Yoshida (US patent 5,699,056) in view of Angeloni (US patent 3,680,043).

As pointed out above, Mitchell does not teach nor suggest the claimed invention. Therefore, any further combination with secondary references will also lead away from the present claims.

Yoshida is relied on as providing traffic information and Angeloni is relied on as teaching a system that reports excessive vehicular speeds. The Examiner contends that Angeloni's

excessive vehicular speeds is the same as the number of vehicles exceeding speed limit and average speed of each vehicle.

Apparently, the Examiner is confusing the parameters sensed because they all relate to vehicles. However, they are not the same even with the plain interpretation of the claims language.

Moreover, Yoshida and Angeloni relate to on-vehicle displays and monitoring of traffic with on-board systems that keep moving with the vehicle into the traffic which is being monitored. Mitchell relates to a roadside display of speeds. There is nothing within the references teaching a combination as proposed by the Examiner (with hindsight reconstruction) nor does the combination provide the claimed display on a portable speed alerting system as defined in the present claims.

Obviousness is tested by what the combined teachings of the references would have suggested to those of ordinary skill in the art. It cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Teachings of references can be combined only if there is some suggestion or incentive to do so. In re Fine, 5 USPQ2d 1596, 1599 (CAFC, 1988).

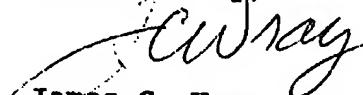
Nothing in the references, either singly or in combination, teaches or suggests the claimed features. Therefore, the references cannot anticipate nor render obvious the present invention as claimed.

In deciding that a novel combination would have been obvious, there must be supporting teaching in the prior art.

There is no suggestion or motivation in the prior art to combine the elements as done by the present invention and hence the claims cannot be rendered obvious. In re Newell, 13 USPQ2d 1248, 1250 (CAFC, 1989).

Since Applicant has presented a novel, unique and non-obvious invention, reconsideration and allowance are respectfully requested.

Respectfully,



James C. Wray, Reg. No. 22,693  
Meera P. Narasimhan, Reg. No. 40,252  
1493 Chain Bridge Road, Suite 300  
McLean, Virginia 22101  
Tel: (703) 442-4800  
Fax: (703) 448-7397

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